

Ravalli County Planning Board
Meeting Minutes for January 3, 2007
7:00 p.m.
Commissioners Meeting Room, 215 S. 4th Street, Hamilton, Montana

Public Hearing
Sunnyside Orchards, Block 10, Lot 24, AP (Greer) Minor Subdivision

This is a summary of the meeting, not a verbatim transcript. A CD of the meeting may be purchased from the Planning Department for \$5.00.

1. Call to order

Dan called the meeting to order at 7:01 p.m.

2. Roll Call (See Attachment A, Roll Call Sheet)

(A) Members

Mary Lee Bailey (present)
Dale Brown (present)
Phil Connelly (present)
Ben Hillicoss (present)
Dan Huls (present)
Lee Kierig (present)
Maura Murray (present)
Chip Pigman (present)
Tom Ruffatto (absent - excused)
Les Rutledge (present)

Park Board Representative: Bob Cron (present)

(B) Staff

Afton Clack
Karen Hughes
Renee Van Hoven
Tristan Riddell

3. Approval of Minutes: November 29, 2006 Regular Meeting Minutes

Dan asked if there were any corrections or additions to the minutes from November 29, 2006.

Ben noted that "Libby Morehouse" on Page 5 of the November 29, 2006 Regular Meeting Minutes should be changed to "Laru Morehouse." The Minutes were approved as corrected.

4. Amendments to the Agenda

There were none.

5. **Correspondence**

There was none.

6. **Disclosure of Possible/Perceived Conflicts**

There were none.

7. **Public Hearing**

(A) **Sunnyside Orchards, Block 10, Lot 24, AP (Greer) Minor Subdivision**

- (i) Staff Report on the Subdivision Proposal: **Tristan Riddell** gave an overview of the proposal and stated that Staff recommended approval of the subdivision subject to 10 conditions in the Staff Report. He entered the Staff Report into the record. (See Attachment B, Sunnyside Orchards No. 3, Block 10, Lot 24, AP (Greer) Minor Subdivision Staff Report)

- (ii) Three Minute Rule Waiver Requests

There were none.

- (iii) Public Comment on the Subdivision

- (a) Applicant and the applicant's representatives

Jake Kammerer said he agrees with everything in the Staff Report.

- (b) Persons in Favor

There were none.

- (c) Persons Opposed

There were none.

- (d) Close: Public Comment

- (iv) Board Deliberation on the Subdivision Proposal

- (a) Board discussion and questions

Ben asked how big and deep the gravel pit is on the adjacent property.

Jake said you cannot see the gravel pit from the subject property because there is a buffer of land between where the gravel pit is and where the drainage is. He guessed that the gravel pit is no more than ten feet deep.

Ben asked if the Planning Department thinks there are any safety issues with a gravel pit next door to residential houses.

Jake said the properties abut each other, but that there is no interaction right next to the fence because of the drainage.

Tristan stated the natural drainage is a buffer. He said it slopes back up to a road before the gravel pit, and the gravel pit is up on a terrace where it then drops back down. He said personally, he feels there are no hazardous issues.

Ben asked if there was big equipment by the gravel pit.

Tristan said there were not any in use when he visited the site.

Ben asked if they were treating the proposed subdivision as average density zoning.

Renee replied that it is the total density of the whole property.

Karen said it limits subdivisions to a residential density of one dwelling unit per two acres.

Ben asked if the Planning Department had an estimate for the pro-rata share.

Renee said the applicant is not required to get an estimate, but the Planning Department encourages it.

Ben said whether a proposed subdivision is for 4 houses or 670 houses, the Planning Board is dealing with the same issue of the Sheriff stating that he cannot support the proposed subdivision. He said the applicant is giving three school donations for four lots. He asked if that is how the Planning Department typically deals with school donations.

Renee replied that the Planning Department usually recommends a donation for all lots.

Ben asked what the impact fee from the Stevensville School District for \$30,000 is for. He said the law requires that the Planning Board cannot turn down a subdivision solely because of the applicant's refusal to mitigate capital costs on schools.

Jake stated that his client has been in the process of subdividing for some time and \$250 has been the going rate. He said at that time, it was an opportunity for the developer and the Stevensville School District to negotiate a fair amount. He added that the school did not choose to negotiate, so the applicant went with what was normal at the time the subdivision was first proposed.

Phil asked why the donation to the Three Mile Rural Fire District is \$1,500 and not \$2,000.

Tristan replied it is conditioned to be a \$2,000 donation.

Tom said Fish, Wildlife and Parks asked for a 25 foot setback. He asked if that was agreeable.

Jake replied that it is agreeable on the applicant's property, but the developer cannot put a 25 foot setback on someone else's property.

Tristan said he wanted to point out typos in the Staff Report. He stated under "Limitation of Access onto a County Road," the subdivision road comes off of Cougar Lane. He said scratch the portion of the sentence that states "excepting the approved approach for the internal subdivision road" and add a period to the end of "County-maintained road." He added under "Notification of Proximity to Unnamed Drainage," scratch "intermittent creek" and add in "intermittent drainage."

Ben asked how much water there is on the proposed property.

Jake replied that the well logs that he submitted from the locations directly around the proposed subdivision are within 10 to 18 gallons of water.

Ben said that is not a lot of water if the owners want to put anything else on the two acres.

Jake said a well pumps 12 gallons of water in a minute, and there is 1440 minutes in a day. He said someone could water two acres a day with that amount of water.

Dale said the applicant should come up a little bit on the school donation. He said what the applicant is proposing does not even come close to the \$30,000 for six students that the Stevensville School District proposed.

Jake stated that a fair impact fee is a good thing. He added that the school never negotiated an amount back to the applicant until right before the process began. He said he cannot negotiate a higher price on something he has not been authorized to do.

Chip stated it is unfair for the Planning Board to base their decision on a one page number and for them to try to exact more money from the developer. He said the letter from the School needs to have all of the details on what the money is needed for. He added that there is a limited amount of information and no justification in the letter.

Dale said that a house is not fully taxed the minute it is done, but five or six years down the line.

Jake replied the next year after buying a new home, the owner is taxed the full value of the house. He said additionally, the full assessment on the proposed property is not on 8.7 acres of vacant land anymore.

Lee asked the depth of the wells.

Jake replied 115 to 125 feet deep. He said the wells belonging to the houses west of the proposed property are 35 feet because they are lower in elevation.

Chip motioned to approve the Sunnyside Orchards #3, Block 10, Lot 24, AP Minor Subdivision based on the findings of facts and conclusions of law in the

staff report and the conditions from the staff report, with changes to Conditions 7 and 8. He said he would like to change Condition 7 to say “contribution to be made at first conveyance” and change Condition 8 to say “the applicant shall make the \$250 contribution at first conveyance.”

Dale seconded the motion.

(b) Board action

(1) Review of Subdivision Proposal against the Six Criteria

The Board did not review the Six Criteria beyond their discussion and the findings of fact and conclusions of law on the subdivision proposal in the Staff Report.

(2) Board Decision

The vote was called; the members voted (10-0) to conditionally approve the Subdivision. (See Attachment C, Sunnyside Orchards #3, Block 10, Lot 24, AP (Greer) Minor Subdivision Vote Sheet)

Jake said he does not serve large clients. He added he has not had a client yet who has refused to pay what is fair, but that people just need to know what fair is.

Dale said the Commissioners are looking into impact fees with the legislature.

Ben proposed sending a letter to the Commissioners and Stevensville School District’s superintendent stating that the school is not providing enough information or good negotiations.

Karen said during the Aspen Springs review, George Corn sent a letter to all the school superintendents explaining the difference between impact fees and subdivision exactions. She said it stated for subdivision exactions, the schools need to provide reasonable estimates and rationales. She said the letter explained that the exactions have to do with the operating-type expenses and the impact fees have to do with capital improvement expenses.

Lee said the fees are not broken down and the school does not say what the real costs are.

Ben said after the first year with no taxes after a house is built and occupied, the owners then pay taxes, which presumably pays for the students. He said the County has an inward migration of people who do not own homes, who have kids that impact the schools. He added the \$250 fee covers that issue. He said there is a problem with capital improvements if the County needs to have new schools and that is why the County has impact fees.

Les said last spring two of the school superintendents said all of the school superintendents were going to get together to come up with an amount the

whole County could agree on. He stated that meeting apparently did not happen. He said the Planning Board cannot make a decision when there is indecisiveness within the school districts.

8. **Close Public Hearing**

9. **Communications from Staff**

Karen said she made recommended changes to the Planning Board bylaws. She stated if the Planning Board wants to accept the changes she made to the bylaws, they would make it an agenda item at their next meeting to recommend those changes be adopted by resolution. She recommended the Planning Board have a subcommittee if they have additional changes to make to the bylaws. She suggested forwarding a separate document to the Commissioners that talks about the Planning Board's Subdivision Review Subcommittee.

Ben asked if "the Board" stood for the Planning Board under number 12, Legal Representation.

Karen replied every reference to "the Board" is the Planning Board.

Ben asked what the Planning Board would do if they were to get sued and were named as individual plaintiffs.

Karen said the Planning Board is covered because they do not actually make any decisions. She stated they may get named, but that a court case would probably get thrown out.

Dan said the Planning Board formed a committee to look at the bylaws.

Bob said he sat down with Karen to go over the Planning Board bylaws. He added he put in what he thought was important and she reviewed it with George Corn. He said their final product is available to send out to the Commissioners.

Karen said she will send it to the Commissioners once the Planning Board makes their decision on the bylaws.

Bob suggested emailing a final copy to each of the Planning Board members.

Dan suggested emailing any changes or additions to the bylaws to Staff, so the Planning Board members are all on the same page to deal with it at the next meeting.

Karen said Staff has come up with a plan to do countywide zoning. She stated one basic component of their work plan would be to create Zoning Resolution Regulations. She added the Land Use Subcommittee has a more detailed set of Zoning Regulations, but suggested to the Land Use Subcommittee that they look at the possibility of streamlining the regulations down to cover the basic elements. She said she sees countywide zoning as being separated into two different phases. She added the next piece of the work plan would be to develop a land capability and suitability analysis using resource infrastructure, limiting factors for development, and doing an analysis of the land to figure out where development is more suitable or less suitable. She said the next major piece of the work plan is to create a map. She said there will be trial work on the zoning map between the Planning Board, Staff, and community leaders and zoning should be in place by a year-and-a-half. She added she wants to involve a professional facilitator with the public involvement.

Ben asked if the time line was conditional with adding a consultant or with existing Staff only.

Karen said she thinks the Planning Department could do it with additional Staff, but it may take longer.

Ben stated one-and-a-half years are beyond the emergency zoning initiative. He asked what would happen at the end of a year if there was not an adopted zoning plan.

Karen replied Staff could get a strong proposal by the one year deadline.

Ben asked what happens in a year when the zoning initiative has expired.

Karen said the Commissioners can extend the zoning initiative for a period of one year, and if they do not, the initiative goes away. She stated if the interim zoning has not been extended by November 8, 2007, any subdivision in place would not have a zoning compliance issue.

Dan said he thinks a court of law will extend the zoning initiative if the Commissioners fail to do so by the deadline.

Karen said if the County is substantially moving along with a countywide zoning project and making significant progress, even if the Commissioners do not extend the zoning initiative, at least they are moving in the right direction in terms of putting proactive planning measures in place.

Ben stated the Planning Board and Planning Department need to have something ready to go to the Commissioners before November 7, 2007. He asked Staff what they would take out of the plan in order to streamline it.

Karen said she would keep in basic provisions dealing with density, use, setbacks, and heights. She stated she would not focus in on design and development standards because the more detailed the standards are, the harder it is going to be to get regulations crafted that people can deal with, understand, get in place, and apply to the land.

Les said the Land Use Subcommittee's aim was to develop a version of the regulations suitable enough to distribute them to the whole Planning Board. He added if the Land Use Subcommittee is going to devote their attention to a streamline version of the regulations, it would take the Planning Department time to do the revisions on the current draft. He asked if the Land Use Subcommittee can wait for the revisions before they do a streamline version of the regulations.

Karen said it is better to do a streamline version of the regulations. She stated it is easier to take things out than to put things in and she does not think it will take as long as the first set of revisions. She said a good solid set of regulations to start with would be better than hurrying. She suggested the Land Use Subcommittee finalize the set of revisions that the Planning Program will use as their baseline frame-work.

Lee asked what mechanisms are being employed to come to some determination on how many people the valley could sustain. He said in a reactionary way, the zoning principle is where the Planning Program needs to be going. He asked if trying to figure out a sustainable population was a priority.

Karen said the Land Use Subcommittee has struggled with the question of sustainable population.

Ben said the Land Use Subcommittee was going to try to approach various aspects of sustainability.

Karen said Staff will compile together all the resources they think are valid for their resources assessment.

Chip asked if the revisions would meet the criteria for subdivision review if the Land Use Subcommittee streamlined the regulations to density, use, setbacks, and height restrictions and if it could become an administrative process.

Karen replied it could never become an administrative process under the current state statutes and the evaluation of subdivisions based on the review criteria is where they can streamline. She said the key is not what the zoning addresses, but how the County applies the zoning to the land information. She stated the land capability and suitability analysis needs to be based on an evaluation of an impact of development on the review criteria for subdivision review.

Chip asked if that would be Phase 2 in Staff's scenario.

Karen replied in the Staff's scenario, they would do their best to do an analysis based on the review criteria. She said in the end, if the County felt the zoning districts were put in place and adequately assessed, they can then revise the Subdivision Regulations to allow for the more streamlined process.

Chip said if the majority of the public does not like what the Boards and Staff do, they have wasted their time. He stated they need to be careful to draft something that people will embrace. He asked if the Planning Program can accomplish these issues without a Building Department.

Karen stated inspections are done through a zoning compliance office or a zoning compliance permit program where the County would charge fees to support it.

Lee said the zoning enactment process that he is familiar with, typically is enacted by the governing body. He added the idea of creating a balanced community would be more palpable.

Mary Lee said the Planning Board has really good ideas on how to reach, work with, and identify with the public. She stated it will be an educational process for everybody to understand what is going on. She said the Boards and Staff could get a start and then go back and add the layers, which would help the public feel like the Planning Program is moving ahead.

Karen said the Planning Department is internally reviewing the draft work plan. She commented that she wanted the Planning Board to give some initial feedback on her work plan overview.

Bob reported that he is uncomfortable with letting the people in Ravalli County help the Boards and Staff with the work plan. He said there are things the public could help with right now which would build ownership. He said Staff should ask the people of Ravalli County what

land capabilities they think are important. He asked when the Planning Program was going to start including the public.

Karen said the plan has already been put into affect. She agreed that having more public involvement sooner, rather than later, is critical. She said Staff framed the work plan to immediately identify key leaders, contact people, resources, and communities and to hold a series of public meetings to talk about zoning and the plan for development improvement. She stated before Staff becomes involved in doing the land capability and suitability analysis, they may start to compile data looking at where the Planning Department's resources are online.

Bob asked if she was going to meet with the public involvement leaders this month.

Karen replied Staff will start going to different areas to find the community leaders to touch base with them and to talk about the work plan.

Maura asked what method Staff is using to identify the public leaders.

Karen replied Staff is in the process of figuring out how to identify public leaders. She said Dave Shultz offered to assist Staff with that, along with leaders of formal organizations and other members of the community who are not in leadership roles.

Ben said in the density, use, setbacks, and height criteria, Karen did not use the term sustainability. He stated sustainability should be considered in the first go around, at any level that works, where they can define it. He asked Staff if they eliminated sustainability from their list or if they skipped over it.

Karen replied when the County establishes its regulations, they can develop density that addresses sustainability. She said when the County does its land capability study, some level of sustainability is involved.

Chip said sustainability is a philosophical and political angle, and not as scientific. He added most of what people consider to be sustainability is actually short term planning.

Lee asked what if, in the next five years 2,500 houses are built, when in actuality there is only room for 30,000 more houses in the Bitterroot Valley before there is no more land to build on.

Chip replied unless it is limited by a public health and safety issue, it is considered short term planning. He said sustainability is not something people can modify.

Maura said it is not the Planning Board's job to determine the exact number of people who could live here, but that they need to look into long term planning.

Dan said he would like to appoint Phil as the alternate representative for the Open Lands Board.

10. **Communications from Public**

There were none.

11. **Communications from Board**

There were none.

12. **New Business:** Planning Board Election of Officers

Dan said the terms of office shall be for one year with the limitation on consecutive terms. He stated the Planning Board members need to elect a new President and Vice President.

Les nominated Chip to become President of the Planning Board.

Maura seconded the nomination.

Les motioned to elect Chip as the new Planning Board President.

Tom seconded the motion.

The Board voted unanimously (10-0) to elect Chip as the Planning Board President.

Ben nominated Lee to become Vice President of the Planning Board.

Maura nominated Phil to become Vice President of the Planning Board.

Phil nominated Maura to become Vice President of the Planning Board.

Dan stated the Planning Board needed to have a secret ballot to elect the new Vice President. He counted the secret votes and determined that Maura had been elected the new Planning Board Vice President.

Maura asked Phil if he would like to be on the Open Lands Board and she be the alternate representative.

Phil said yes.

Karen said the Planning Board and Planning Department could do a collective end-of-the-year calendar report.

Chip asked if the Planning Department also prepares a budget for the Planning Board.

Karen replied the Department and Board should collaborate to do the budget.

Commissioner Lyons said the Commissioners have received a preliminary draft on the streamside setbacks.

Dan asked if the draft will be available to the public.

Karen replied Staff will find a way to get it out to the public.

Phil asked if the Land Use Subcommittee is supposed to decide tomorrow whether to embrace Staff's proposal.

Karen replied her intent is for the whole Planning Board to agree, but that she would appreciate more feedback and discussion if the Land Use Subcommittee could afford some time from their work session Thursday morning to consider Staff's proposal in more detail.

Ben asked if the Commissioners were attending the Land Use Subcommittee meeting Thursday morning.

Karen replied they will attend primarily as observers.

Dan asked if someone on the Planning Board needed to make a recommendation on the streamside setbacks before the Commissioners hear it.

Karen replied it would be adopted via zoning resolution where the Planning Board would be the recommending body, unless there is another regulatory mechanism she cannot think of.

13. Old Business

There was none.

14. Next Regularly Scheduled Meeting: January 17 at 6:00 p.m.

(A) Riverview Orchards, Block 5, Lot 1-A, AP (Schultz) Subsequent Minor Subdivision and Three Variances

(B) 2007 Work Plan Development for the Ravalli County Planning Program

15. Adjournment

Dan adjourned the meeting at 8:43 p.m.